

Message

**From:** Nagrani, Kavita [Nagrani.Kavita@epa.gov]  
**Sent:** 2/20/2020 5:07:29 PM  
**To:** Palmer, Leif [Palmer.Leif@epa.gov]; Hicks, Matt [Hicks.Matthew@epa.gov]  
**CC:** Ghosh, Mita [Ghosh.Mita@epa.gov]  
**Subject:** RE: Notices of Proposed Rule published

Hey!

Since Matt has raised this issue, I did bring it up with Kathy Hurlb in OW during an 11 am call we had this morning (the purpose of which was to compare notes from Tuesday's ESA call with FDEP and the Services). Her position was

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

I am not sure if she and Simma have discussed this yet so I'll be interested to hear Simma's thoughts, as well.

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**From:** Palmer, Leif <Palmer.Leif@epa.gov>  
**Sent:** Thursday, February 20, 2020 11:50 AM  
**To:** Hicks, Matt <Hicks.Matthew@epa.gov>  
**Cc:** Ghosh, Mita <Ghosh.Mita@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>  
**Subject:** Re: Notices of Proposed Rule published

Thanks. I mentioned this on the OGC call regarding when we can expect Florida to submit the package. Let me know what Simma says - I told Steve N that we do not need to immediately elevate the issue but we need to work out our position quickly.

Sent from my iPhone

On Feb 19, 2020, at 12:09 PM, Hicks, Matt <Hicks.Matthew@epa.gov> wrote:

That's right. But I've highlighted some language in blue below which is inconsistent with everything we've discussed with FDEP thus far, i.e.,

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

I have a call in to Simma to confirm and will let you know what she says.

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**From:** Palmer, Leif <Palmer.Leif@epa.gov>  
**Sent:** Wednesday, February 19, 2020 11:48 AM  
**To:** Hicks, Matt <Hicks.Matthew@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>  
**Subject:** RE: Notices of Proposed Rule published

I take it that the highlighted language below means:

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

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**From:** Hicks, Matt <Hicks.Matthew@epa.gov>  
**Sent:** Wednesday, February 19, 2020 11:38 AM  
**To:** Palmer, Leif <Palmer.Leif@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>  
**Subject:** FW: Notices of Proposed Rule published

FYI that the Notice of Proposed Rulemaking published today. Last week, FDEP indicated that it would go to OFARR Thursday or Friday of last week. Yesterday, FDEP confirmed that to their surprise it had already cleared OFARR and that it would be published today.

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**From:** Mason, Heather <[Heather.Mason@FloridaDEP.gov](mailto:Heather.Mason@FloridaDEP.gov)>  
**Sent:** Wednesday, February 19, 2020 11:18 AM  
**To:** McGill, Thomas <[Mcgill.Thomas@epa.gov](mailto:Mcgill.Thomas@epa.gov)>; Parker, Christopher <[Parker.Christopher@epa.gov](mailto:Parker.Christopher@epa.gov)>; Calli, Rosemary <[Calli.Rosemary@epa.gov](mailto:Calli.Rosemary@epa.gov)>; Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Hurlid, Kathy <[Hurlid.Kathy@epa.gov](mailto:Hurlid.Kathy@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Speir, Jeffrey <[speir.jeffrey@epa.gov](mailto:speir.jeffrey@epa.gov)>; Frazer, Brian <[Frazer.Brian@epa.gov](mailto:Frazer.Brian@epa.gov)>; Nagrani, Kavita <[Nagrani.Kavita@epa.gov](mailto:Nagrani.Kavita@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Laycock, Kelly <[Laycock.Kelly@epa.gov](mailto:Laycock.Kelly@epa.gov)>  
**Subject:** Notices of Proposed Rule published

Hi EPA Folks,

Our notices of proposed rule were published today. The information is below. Please let me know if you have any questions!

The Department has published Notices of Proposed Rule for the State 404 Program. This rule is just one step in the process for the State to assume authority to administer the dredge and fill permitting program under Section 404 of the Clean Water Act. Rulemaking will not give the Department authority to administer the 404 program. The rules will be submitted as part of the assumption application package to the Environmental Protection Agency (EPA) once finalized.

This rulemaking includes the addition of minor changes in the state's Environmental Resource Permitting (ERP) rule, Chapter 62-330, F.A.C., to provide for consistency between programs, and the creation of a new rule, Chapter 62-331, F.A.C. to implement the State 404 Program and to include federal regulations that are not currently covered under the ERP program. These rules will become effective some time after approval of the assumption application package by EPA.

The Notices can be viewed via the following:

- [62-330 Notice](#)
- [62-331 Notice](#)

The draft forms and handbooks can be viewed on the [Division of Water Resource Management's rule development website](#).

**Heather Mason**

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Submerged Lands and Environmental Resources Coordination  
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